

Office of Inspector General

Top Management Issues at the U.S. Department of Labor January 2003

Following are the ten areas that the Office of Inspector General considers the most serious management challenges currently facing the Department:

- Grant Accountability, Performance, and Effectiveness
- WIA Program Implementation
- Financial Performance
- Accountability: Budget and Performance Integration
- Security of Pension Assets
- Protection of Worker Benefit Funds
- Information Technology and Electronic Government
- Integrity of Foreign Labor Certification Programs
- Human Capital Management
- Effectiveness of Mine Safety and Health Programs

Grant Accountability, Performance, and Effectiveness

The Department continues to face challenges in effectively providing accountability for the costs and results of its grant programs. The Department provides almost \$9.5 billion in grants each year, mostly in the employment and training area. However, there are inherent risks associated with these grants because a large share of the funding is passed down to subgrantees and contractors, making it difficult to provide direct Federal oversight. In addition, many of the grantees are relatively small and/or new to administering Federal grants. Recent OIG audits highlight our concerns about accountability over DOL grants in the following areas under this initiative:

Preaward/Award: Federal program regulations establish requirements related to procurements, including the use of competitive procurement procedures in selecting and awarding funds to entities to provide services. We have identified instances where subgrants and contracts were awarded without competition, contrary to program requirements. We have also found weak internal controls over the awards process, and instances where services were performed in the absence of a contract or grant agreement. For example, our March 2002 audit of a Welfare-to-Work (WtW) grantee that received over \$500,000 in WtW funds found that procurement procedures were not followed in selecting the grantee as a WtW service provider. We also determined that the grantee was not financially solvent, and had not demonstrated success in administering Federal grant funds, which the OIG concluded adversely affected the quality of training provided. During the course of our audit, state officials terminated the grant.

Grant Execution: The purpose and objectives of Federal grant programs are set out in statutes, regulations, and grant agreements. These grants and subgrants establish performance levels that must be achieved. In addition, program laws, regulations, and individual agreements impose requirements that affect allowable costs. We have identified numerous deficiencies related to inadequate performance and/or unallowable charges. For example, an OIG audit found that only 59 participants were served under two WtW contracts that were expected to serve 170. Our March 2002 audit of a WtW competitive grantee found payments were: made for costs that were incurred before contracts were effective; in excess of grant limitations; inadequately supported; and/or not authorized by the grant agreement or individual contracts. After the issuance of this audit report, ETA did not extend this grant.

Reporting: Recipients of Federal funds are required to maintain systems capable of recording and reporting accurate and timely financial, participant, and performance information. However, our November 2001 audit of DOL grants to assist trade-affected dislocated workers in El Paso, Texas found that the grantee's management information system overstated the placement rate as 81%, as opposed to a rate of 36.2% as determined by our audit. In another WtW audit, the OIG found that required Federal reports were sporadically submitted, and those that were received were inaccurate.

Oversight: Because grant funds are spent by entities outside the Federal government, appropriate agency guidance, monitoring, and oversight of grantees are key to providing accountability over such funds. During our audits of several grants awarded to State Workforce Agencies to assure Y2K readiness, we learned ETA had informally issued guidance to the states that appeared to confuse or even contradict prior ETA instructions on the use of funds. In addition, recent OIG work with respect to selected states' obligation and expenditure of WIA funds found that ETA had not issued clear definitions and reporting instructions regarding the reporting of obligations.

Recently, the OIG has worked with ETA, DOL's largest grantor agency, to help assess weaknesses in its grant accountability procedures and to develop potential solutions. In April 2002, ETA took a significant step toward improving accountability when it issued a grant/contract administration implementation plan that addressed many of the OIG's concerns. The plan included a comprehensive list of issues, recommendations, timelines, responsible offices, and budgetary needs and identified specific, measurable strategies to be implemented. The OIG will continue to work with ETA and the Department to improve accountability over DOL grants so that funds are properly managed.

The OIG previously identified the rapid expansion of the Bureau of International Labor Affairs (ILAB) as one of the top management challenges facing the Department. While ILAB has improved its grant accountability by implementing most of the recommendations from prior OIG audits and evaluations, additional improvements are needed. Specifically, actions need to be taken to improve internal controls and system security over the Activity Tracking System, which ILAB developed to provide day-to-day project financial information. In addition, DOL's Office of Administration and Management, Office of the Chief Financial Officer, and ILAB need to work together to ensure that ILAB is able to obtain pertinent, timely information from DOL's Core Financial Management System.

WIA Program Implementation

The Department also faces significant challenges associated with WIA training and employment programs for youth, adults, and dislocated workers. Designed to improve the occupational skills, employment prospects, and earning potential of participants, these programs are funded at billions of dollars annually. The upcoming reauthorization of WIA and related rulemaking, as well as OIG recommendations on WIA activities, present opportunities to make needed improvements to the operation of these key programs.

Resolving Inconsistencies in WIA: Traditionally, a tension has existed between providing states and local governments maximum flexibility in running employment and training programs and assuring financial and performance accountability for such programs. Both increased accountability and state and local flexibility are among the seven key principles embodied in the Workforce Investment Act of 1998, which superseded the Job Training Partnership Act on July 1, 2000.

In implementing WIA, the Department left many key terms and definitions to state discretion. Some of these impact on reporting against performance measures. For example, credential attainment is a performance measure for the WIA adult, dislocated worker, and youth training programs, and states compete for incentive money based on their achievement of this and other performance measures. However, the states have wide latitude in determining the definition of "credential." As a result, depending on states' policies, credentials could encompass anything from a two-week word processing course to a two-year associate's degree. Also, recent OIG work with respect to selected states' obligations and expenditures of WIA funds found confusion exists over ETA's definition of what constitutes a local obligation that states are required to report on Financial Status Reports. In fact, we found disagreement existed even within ETA, which administers WIA, over this key reporting term. We noted states interpreted ETA's definition differently, which resulted in inconsistent reporting of this item. ETA recently issued guidance to clarify key WIA financial reporting terms and instructions.

WIA authorizes appropriations through FY 2003. As WIA reauthorization is debated next year, the Department will be challenged to work with the Congress in drafting replacement legislation and issuing implementing regulations that strike an appropriate balance between the sometimes competing interests of accountability and flexibility.

Management and Performance Challenges

Financial Performance

One of the goals of the President's Management Agenda is improved financial management. The Department has made great strides in financial reporting and has received clean audit opinions on its financial statements since FY 1997. This progress is reflected in the Department's improved rating on the OMB Scorecard that measures progress towards implementing the Agenda. Previously rated as "red" in the category of financial management, the DOL recently received a score of "yellow" for its progress in this area. Nevertheless, the Department faces significant challenges in producing timely financial information that can be used in its day-to-day management. To do so, the Department must stress proactive management of its financial records over financial statement preparation. Financial events and transactions need to be recorded when they occur rather than at year-end. There have been improvements in this area as the Department has complied with OMB's required semiannual financial statements. However, key to the proactive management of the Department's financial records is vesting the necessary authority in the Department's Chief Financial Officer (CFO) to provide direct oversight of all financial management operations of the various DOL agencies. Historically, the CFO has not had this authority.

Another challenge in this area is the adequacy of information being provided to the Department via audit reports conducted by independent public accountants or state auditors under the Single Audit Act. Over 90% of the Department's expenditures are audited under the Single Audit Act by independent public accountants or state auditors throughout the country. The Department relies on the Single Audit Act to provide audits for grant costs as well as for Unemployment Insurance (UI) benefit costs and employer tax receipts at each of the states. During FY 2002, in addition to its scheduled single audit reviews, the OIG conducted comprehensive quality control reviews of six single audits. The results of these reviews indicate that all six had serious deficiencies, including inadequate sampling, which would make the reports unreliable. As a result, the OIG is increasing our monitoring and evaluation of single audits, and will be working with DOL's grantor agencies to improve their monitoring and evaluation activities. Further, in coordination with OMB, the OIG will continue our multi-year review of single audit reports to determine the adequacy of the audit coverage and whether DOL can continue relying on them for financial management purposes.

Accountability: Budget and Performance Integration

Performance budgeting is also a major focus of the President's Management Agenda, which calls for further integrating budget and performance to foster a results-oriented Department that is guided by performance rather than process. To this end, the Department has taken initial steps toward instituting a performance budget for FY 2004. Key to the Department's success in integrating budget and performance will be effective strategic planning, as envisioned by the Government Performance and Results Act (GPRA), and the ability to improve the quality and accessibility of program and cost data, including data reported by entities below the Federal level, which serve as a basis for determining the results achieved by programs and operations. Another important tool in the effort to link budget to program outcomes is the Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standard Number 4, which is aimed at providing reliable and timely accounting for the full cost of Federal programs and activities.

Quality of Program Data: The Department is limited in its ability to access and control the quality of program results data used to determine the attainment of its strategic plan goals. This includes difficulties associated with ensuring the quality of the myriad data provided by states and other sources below the Federal level, where 90% of the Department's budget is actually spent. For example, past OIG audits of the WtW Competitive Grants, Dislocated Worker, and Trade programs disclosed high error rates in performance data reported to the Department by its state partners and other grantees. The errors affected performance measures, including participants' wages, training activities, and successes in obtaining jobs, that serve as key indicators in determining the outcomes and success of the program. ETA has initiated a data validation project to create more precise programming specifications and standards for use in validating that the state data concerning WtW, WIA, and other ETA programs are correctly reported to ETA. The OIG will continue to follow ETA's progress in implementing the data validation project to assure the reliability of program data.

Access to Data: Two important tenets of GPRA are that agencies must evaluate program effectiveness and validate performance data. In the employment and training area, it is particularly important to know whether programs have resulted in individuals becoming self-sufficient by obtaining long-term unsubsidized employment at livable wages. Two important tools that may be used to this end are UI and Social Security Administration wage records of individual program participants. However, the Department is limited in its ability to obtain such data for program evaluation and validation purposes in a timely manner. To enhance its ability to conduct program evaluation and validation in this and other equally important areas, the Department needs to have statutory authority to easily obtain and utilize these types of records,

including the information contained in the National Directory of New Hires, which is administered by the Department of Health and Human Services.

Managerial Cost Accounting: Once performance data are determined to be reliable, managerial cost accounting, which matches cost information with program results, is the next step in managing for results. During FY 1999, the Department began implementing the managerial cost accounting standard through agency pilot programs. It was planned that the low-level structures developed in the pilot studies would ultimately be aggregated to result in an integrated agency-wide cost accounting system. However, during FY 2001, the Department abandoned this “bottom-up” approach and began focusing on initiating a “top-down” alternative approach to the implementation of managerial cost accounting. This effort was to be defined by disaggregating high-level agency activities into their components.

The OIG has recently reviewed the implementation efforts of these revised FY 2001 cost accounting plans, and found that overall, the project has had little impact on DOL’s managerial cost accounting system, practices, or capabilities. With the notable exception of the Bureau of Labor Statistics, agency and program managers have been reluctant to either begin the cost accounting process or advance beyond participating in isolated pilot cost studies. The OIG recognizes that an important step in assuring the proper implementation of a managerial cost accounting system was taken in early September 2002, when the Deputy Secretary of Labor asked that the CFO oversee the Department’s cost accounting policy and program. Another important element for matching the full cost of program activities to program results (cost-effectiveness) is the ability to associate employee time with specific activities (activity-based costing), and it was hoped that this element would be included in DOL’s new payroll system. However, activity-based costing was not included in the payroll system, which was implemented in August 2002.

The OIG plans to review the CFO’s plans for the implementation of cost accounting and specific agency or program implementation efforts. In order for DOL’s GPRA reporting to be credible, it is important for DOL to ensure that the performance and cost information generated is accurate, accessible, and auditable.

Security of Pension Assets

The Department is responsible for administering and enforcing the fiduciary, reporting, and disclosure provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA). The goal of Title I is to protect the interests of participants and their beneficiaries in employee benefit plans. Currently, there are over 6 million private employee benefit plans, which cover approximately 150 million people, with nearly \$5 trillion in assets. Given the size of this universe, protecting pension assets poses a significant challenge for the Department. The OIG has identified the following areas as particularly problematic:

Safeguards to Protect Pension Assets: Over the years, the OIG has advocated that ERISA be amended in order to increase protections for pension plan participants. In particular, we have recommended that Section 103(a)(3)(C) of ERISA be repealed. This section contains a provision that results in inadequate auditing of pension plan assets because it exempts from audit all pension plan funds that have been invested in institutions such as savings and loans, banks, or insurance companies regulated by Federal or state governments. Currently, because of this limited scope provision, plan auditors conducting audits of pension plans cannot render an opinion on the plans’ financial statements in accordance with professional auditing standards. These “no opinion” audits provide no substantive assurance of asset integrity to benefit participants or the Department. The Department has concurred with our recommendation through the years and has submitted legislative proposals that would repeal this provision. We urge the Department to continue to push for legislative change in order to adequately protect pension assets.

Further, we have recommended that plan auditors be required to report any ERISA violations directly to the Department. The public accounting profession has a responsibility to be cognizant of potential fraud and other illegal acts in financial statement audits. However, under current law, a plan auditor who finds a potential ERISA violation is not required to report it to the Department. In the interests of plan participants, plan auditors or administrators should be required to promptly report to the Department any ERISA violations.

In addition, we believe that more clarity and guidance is needed on computing participant benefits, particularly with respect to cash balance plans, a growing segment of the pension universe. Industry sources estimate that, since the mid-1980s, 300 to 700 traditional defined benefit pension plans have converted to cash balance plans, potentially affecting over 8 million working Americans and involving over \$334 billion in pension assets. The OIG recently audited a judgmental

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sample of cash balance plan conversions and found that while the conversions adequately protected accrued benefits, some of the sampled cash balance plans were underpaying benefits after the conversions. This was due to employer errors made while projecting participant benefits and cost-of-living allowances. We also found that while the Pension and Welfare Benefits Administration (PWBA) focused on disclosure and education, it did not review the manner in which plans calculated accrued benefits for those employees who left before normal retirement age (usually age 65). We recommended that PWBA direct more enforcement resources toward protecting the benefits of cash balance plan participants, and work with the IRS in developing improved guidance on calculating participant accrued benefits. By taking a more active role in protecting cash balance plan participant benefits, PWBA can help prevent future losses and correct underpayments for workers participating in cash balance plans.

In response, PWBA stated that its enforcement oversight responsibilities are statutorily restricted. Although the IRS has the exclusive authority to issue regulations regarding participant benefits, PWBA has concurrent enforcement authority and fiduciary responsibility over participant benefits, and we believe that it should work with the IRS on such regulatory issues.

Pension Plan Enforcement: Another area of concern involves the security of the billions of dollars in assets in private pension plans, which are an attractive target to organized crime elements, corrupt pension plan officials, and individuals who influence the investment activity of pension assets.

In particular, OIG labor racketeering investigations continue to show that the security of the assets within Taft-Hartley plans, which are jointly administered by labor union representatives and management representatives, is at risk. In 1997 the OIG identified the risk posed by corrupt financial investment and service providers who have the opportunity and ability to structure complex financial schemes to conceal their criminal activity. Our investigations of these schemes have uncovered multi-million dollar fraud enterprises. Abuses by service providers are of particular concern because of the potential for multi-million dollar losses; they typically provide investment or financial advice for more than one plan. A clear illustration is the Capital Consultants, Inc., case, one of the largest pension frauds in history, in which hundreds of millions of dollars were bilked from dozens of union pension funds.

In addition, we have renewed concern about the security of the assets in employer-sponsored 401(k) plans. In 1997, OIG testimony highlighted the problem of employers failing to promptly and appropriately deposit employee contributions into 401(k) plans. At that time, we believed PWBA needed to improve the targeting of its investigative resources toward plans with the most serious potential for abuse. The OIG believes that it is imperative that the Department have in place an effective targeting plan in order to meet the challenges posed by such fraud. Within our jurisdiction, the OIG is developing investigative casework on the growing 401(k) plans that are jointly administered by union and management trustees, and we will continue to monitor the Department's targeting efforts in this area.

Protection of Worker Benefit Funds

Safeguarding Federal employee benefits programs administered by the Department of Labor is a formidable challenge, given the existing vulnerabilities and the sheer scope of these programs, which affect the lives of millions of workers and retirees and involve billions of taxpayer dollars. The OIG has identified vulnerabilities involving financial stability and program integrity within four of the Department's major worker benefit programs.

Funding Concerns

Unemployment Trust Fund: The unemployment trust fund (UTF) was created in 1935 to protect workers during temporary periods of unemployment by providing income maintenance benefits. States provide temporary financial assistance, which is financed by employer taxes. This program paid over \$50 billion in benefits in FY 2002.

Recent circumstances have heightened the OIG's concern that states may not have adequate reserves to meet the demands on their trust funds. After several years of decreasing unemployment, the national unemployment rate has increased over the last two years from 4% in FY 2000 to a current rate of over 5.5%. The Department has estimated that, should a severe recession occur, UTF net assets would decline by \$60 billion, or 68%, over four years. Last year, we reported our concern that 19 states' trust funds were reported by the Department in its financial statements as minimally solvent in FY 2000, which was a period of economic expansion, and were therefore vulnerable to depletion during a recession. As of September 30, 2002, 30 states are being reported as minimally solvent.

Another issue affecting UTF assets relates to the Department of the Treasury's charges to the UTF for its work in collecting and processing unemployment taxes and administering the fund. In a 1999 audit, the OIG determined that the Treasury had overcharged the UTF \$48 million during FYs 1996, 1997, and 1998. This audit found that Treasury's method of charging for administrative costs was fragmented, cumbersome, and unreliable. The OIG recommended that the Departments of Labor and Treasury negotiate an alternative method for charging administrative costs. As a result of our audit, the Treasury Inspector General for Tax Administration is currently looking at Treasury's charges to the UTF. In addition, the OIG is facilitating, and DOL and Treasury officials are pursuing, an agreement on a new methodology for determining Treasury's administrative costs. Once agreement is reached, the OIG will continue to work with the involved parties to ensure that the new methodology is implemented and the \$48 million in overcharges we identified in 1999—and any overcharges for subsequent periods—are credited to the UTF.

In addition, overpayment problems in the UI program are of significant concern. As part of our audit of the DOL FY 2001 financial statements, we noted that the Benefits Accuracy Measurement (BAM) system, which was developed by the Department as a management tool to identify overpayment problems, projected overpayments of \$2.3 billion for FY 2001. For the same period, actual overpayments identified through states' Benefit Payment Control (BPC) activities—under which each state identifies and investigates benefit overpayments, establishes receivables, and collects overpayments—totaled \$669 million, or less than one third of the amount estimated by BAM activities. We also noted that overpayment rates projected by BAM have remained relatively flat at approximately 8.5% over the past 12 years. This raised a concern that the BAM system was not being utilized to reduce the amount of overpayments, and the OIG's ongoing audit work in this area continues to indicate that the information provided by BAM is not being utilized fully to prevent overpayment problems. ETA intends to provide more accountability and oversight with respect to UI overpayments, in part by developing a related outcome goal within the Department's GPRA framework.

Black Lung Trust Fund Deficit: DOL administers the Black Lung Trust Fund to provide disability benefits and medical services to eligible workers in the coal mining industry, when a mine operator cannot be determined liable for providing such benefits. The OIG is concerned with the escalating indebtedness of the trust fund. The Department's consolidated financial statements for FY 2001 reflect that the trust fund was in debt by \$7.3 billion to the U.S. Treasury. This debt resulted from advances provided to the program, which have become an annual necessity for the trust fund to operate. Currently, the excise taxes are sufficient to pay benefits and administrative costs; however, the trust fund must continue to borrow from the Treasury to pay the interest due on past advances.

DOL's annual projections of future receipts and outlays indicate that cumulative borrowings from the Treasury could total \$32.3 billion (unaudited) or more by 2040. According to DOL's estimates, the excise tax collections by 2040 would cover less than 30% of the interest that is accruing and annual advances will exceed \$1.2 billion per year. The Department has acknowledged that, if current operating conditions continue, a change in the statutory operating structure of the trust fund will be necessary to meet its obligations. The Department is working with the Congress on legislation to address the Trust Fund's current debt to the U.S. Treasury and extend current Trust Fund excise tax rates.

Energy Employees' Occupational Illness Compensation Programs: The Energy Employees' Occupational Illness Compensation Program Act of 2000 authorized compensation for certain illnesses suffered by employees of the Department of Energy, its predecessor agencies, and contractors who performed work for the nuclear weapons program. Presently, the program is in the developmental stages with payments expected to increase dramatically over the next several years, presenting a significant challenge to the Department.

Program Integrity

Unemployment Insurance: The integrity of the UI program is also of concern to the OIG. As with any multi-billion dollar benefit payment program, there are those who benefit from the UI program illegally. Through our UI investigative activities, we have identified a number of methods used to defraud the program and have focused on four schemes in particular: (1) fictitious and/or fraudulent employer schemes; (2) internal embezzlement schemes; (3) identity theft or imposter schemes; and (4) counterfeiting of UI benefit checks. We are particularly concerned with identity theft or imposter schemes, which occur when individual identities are stolen and then used to apply for UI benefits. Further, our investigations have disclosed that the ability to file electronic and mail claims creates a vulnerability because individuals have the opportunity to defraud multiple states from a single location. Schemes against the UI program have resulted in substantial losses to the UTF. In addition, systemic weaknesses pose problems for the UI system that need to be addressed, including loss of contributions due to hidden wages and misclassification of workers by their employers.

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Recent OIG testimony on the integrity and abuse of the UI program highlighted several recommendations to the Department for strengthening the program. Among our recommendations are enhancing fraud detection and investigative training for state personnel who are responsible for benefit payment control and internal security. This training should focus on fraud prevention and detection, information sharing regarding common fraud schemes, and dissemination of best practices used by the states. This transfer of knowledge would assist the states in their efforts to improve their enforcement and oversight capabilities.

Federal Employees' Compensation Act: Recent OIG testimony highlighted some of our management and operational concerns regarding the Federal Employees' Compensation Act (FECA) program, which provides compensation and medical care for Federal employees who suffer job-related injuries, diseases, or death. While the Department has initiated several measures to enhance the integrity of the \$2 billion FECA program, OIG investigations continue to disclose the vulnerabilities to fraud committed by medical providers and claimants. Fraudulent activities by medical providers include billing the government for services that were not rendered, charging multiple times for the same procedure, billing for non-existent illnesses or injuries, and overcharging for services. Claimant fraud activities include reporting false injuries, recovering but then continuing to claim benefits, and failing to report or underreporting outside employment income to the Department.

Information Technology and Electronic Government

The expansion of electronic government is also among the aims of the President's Management Agenda. This presents challenges for the Department, such as the security of its information technology (IT) assets, the seamless implementation of its new IT architecture, and the integrity of its benefits program in an electronic government environment.

Pursuant to the Government Information Security Reform Act, we provided to the Office of Management and Budget the OIG's Executive Summary Report on the results of OIG IT audits and evaluations during FY 2002. Based on 16 audits and evaluations, including systems security tests, and the independent verification and validation of the Department's Plans of Action and Milestones, we found DOL is improving upon its information security program. The Department has provided much needed direction for its information security program, resulting in a more coordinated and comprehensive approach in implementing system security. However, while the efforts by the Department and program components are notable, the OIG continues to identify areas needing improvement. The Department will continue to be challenged in assessing risks; implementing preventive and/or detective management, operational, and technical controls; and identifying vulnerabilities through iterative testing and managing the related mitigation activities.

Security of IT Assets: DOL currently operates 82 sensitive systems, including mission-critical information systems, encompassing application and general support systems. The Department relies on these systems to monitor and analyze the nation's labor market and economic activities, manage workforce services, and protect and compensate American workers. Recent OIG audits revealed specific vulnerabilities in computer security and protection of assets. Further, the Department is also implementing a new IT enterprise-wide architecture and is modernizing its IT systems accordingly. Although the Department has been proactive in moving to correct weaknesses as they are identified, the Department needs to continue its efforts to secure its major systems against threats and loss of assets at the system level.

CIO Authority: The Chief Information Officer (CIO) is the Departmental official responsible for establishing information technology policy, providing oversight of IT assets, and ensuring compliance with a host of IT requirements. Currently, the CIO is the Assistant Secretary for Administration and Management, who is also responsible for providing leadership in a number of administrative areas. In our opinion, having this dual role may either divert attention from, or conflict with, the CIO's responsibilities. The OIG believes that, like the Chief Financial Officer (CFO), who is responsible for establishing policy, providing oversight, and ensuring compliance relative to financial management, the CIO should be organizationally independent in the Department.

We do not disagree with the Department's position that the incumbent CIO and Deputy CIO have been successful under the current structure, nor do we disagree that aligning the CIO organization with OASAM provides certain advantages in planning and funding priorities. The fact that the current CIO and Deputy CIO have had significant successes in information technology management in the Department does not guarantee that all future CIOs will enjoy the same level of success. Further, no DOL agency or component should have to be directly aligned with OASAM in order to be properly reflected in the Department's strategic planning or to receive the appropriate level of funding. We believe that in the long run, the Department will best be served by situating the CIO to be more organizationally independent with the sole focus of information technology management. Lastly, from the standpoint of the future importance and role of information

technology in carrying out the Department's business, the willingness of having a CIO in a shared role with that of the Assistant Secretary of OASAM could allow for the possibility that information management duties may not always be the primary duties of the Department's future CIOs.

Program Integrity in an Electronic Environment: The Department and its program partners are moving from a paper environment to an electronic one for the delivery of services, benefits, and program administration. The use of automated procedures and Internet communications has the potential to broaden the range of services, increase hours of operation, and reduce administrative costs. However, this move also brings new and increased vulnerability to misuse, fraud, and monetary loss. This has been evidenced in recent OIG casework in the Department's worker benefits and UI programs. Therefore, to assure program integrity, the Department must assess the risks involved and utilize a comprehensive, integrated approach to oversight and enforcement that addresses technological changes to how services are provided and benefits paid.

Integrity of Foreign Labor Certification Programs

The Department's foreign labor certification programs provide employers access to foreign labor. The permanent H-2A and H-2B programs are designed to ensure that the admission of alien workers does not adversely affect the job opportunities, wages, and working conditions of American workers or legal resident aliens. The H-1B Visa Specialty Workers program helps employers compete in the global market by giving them access to highly qualified individuals in specialty occupations. Abuses of these programs may result in economic harm to American workers and businesses, exploitation of foreign workers, and security risks associated with aliens who are admitted to this country by fraudulent means.

The Department's ability to enhance the integrity of the H-1B program is severely challenged because it lacks the authority to validate information on applications completed by program participants. Under the program, employers who intend to temporarily employ foreign specialty-occupation workers are required to file labor condition applications with the Department stating that appropriate wage rates will be paid and workplace guidelines followed. DOL is statutorily required to certify applications unless it determines them to be "incomplete or obviously inaccurate." Under current law, the Department's role in reviewing labor condition applications amounts to a rubber stamp.

The OIG believes that if the Department is to have a meaningful role in the labor certification process, it should have corresponding statutory authority to ensure the integrity of the process, including verifying the accuracy of information provided on labor condition applications. This is critical because the OIG continues to identify fraud in the foreign labor certification programs, particularly the H-1B program. These cases involve fraudulent petitions filed with DOL on behalf of fictitious companies and corporations, petitions that use the names of legitimate companies and corporations without their knowledge or permission, and immigration attorneys and labor brokers who collect fees and file fraudulent applications on behalf of aliens. For example, a recent joint investigation led by the OIG found that a Virginia attorney, with the help of associates, filed 1,400 fraudulent labor certification applications. For one small restaurant, he filed 238 applications for cooks over a period of 17 months. The attorney was indicted in September 2002 on charges including labor certification and immigration fraud.

Human Capital Management

The management of human capital will present a significant challenge to the Department over the next decade, due to anticipated workforce and skills shortages. As many Federal workers become eligible for retirement, the Department's ability to recruit and retain highly qualified people will be essential to the successful accomplishment of its mission. The Department projects that 27% of its workforce, as well as about 50% of its supervisors, are eligible to retire within the next five years. The resulting need for human capital planning across government has been highlighted both in the President's Management Agenda and a 2001 General Accounting Office report that added strategic human capital management to its list of Federal programs and operations identified as high risk.

Recognizing this challenge, the Department has instituted a number of policies to maximize its recruitment and retention of talented people. These include increased use of special hiring programs, telework, flexible work schedules, transportation and childcare subsidies, training and professional development, succession planning, and retention and recruitment bonuses. The Department also has indicated that it plans to implement a Department-wide strategy to address succession planning, core competency analysis and training, and the further use of personnel flexibilities. Maximizing the efficiency and utilization of these programs must remain a priority if the Department is to be truly effective in attracting and keeping the best people.

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The OIG recently evaluated both the Department's telework program and its participation in the Presidential Management Internship program, which is designed to attract individuals with advanced degrees to Federal service. In these studies, we identified ways to improve the use of these programs as recruitment and retention tools.

In addition, there are a number of specific legislative, regulatory, and policy changes that would be helpful to Federal agencies like DOL in more effectively competing with private industry for highly skilled personnel and in retaining qualified employees. Flexibilities are needed in the areas of salary levels, recruitment bonuses, and promotions, as well as a number of hiring rules such as the number of selected qualified candidates who may be considered from a certification list. With such flexibilities, however, comes an even greater responsibility for DOL management to ensure that any new authorities are applied appropriately.

Effectiveness of Mine Safety and Health Programs

In January 2001, the OIG listed enhancing the effectiveness of programs administered by the Mine Safety and Health Administration (MSHA) as a management challenge to the Department. Prior evaluations by the OIG had identified a number of mine health and safety issues needing the Department's attention to ensure programs that protect miners from injury or death operate efficiently and effectively. MSHA has taken significant steps toward addressing the recommendations that resulted from those evaluations, and will be challenged in the coming year to fully implement outstanding recommendations, some of which require rulemaking.

For example, an OIG evaluation found MSHA was unable to complete statutorily mandated inspections of Metal/Nonmetal mine operations because of the rapid growth in mine operations, reductions in the numbers of inspectors, and shifts toward compliance assistance. Chief among our recommendations was that MSHA study its enforcement and compliance assistance programs to determine which have been most effective in reducing injuries and fatalities. In response to our report, MSHA has completed this review. It is also developing a nationwide "Special Emphasis" program, based on input from district offices, to concentrate its safety and health inspectorate on mines with excessive incidence, injury, and illness rates. Additionally, MSHA has taken steps to reinstate the program for accident reduction or a derivation of that program.

MSHA has also developed a plan to encourage districts to achieve more consistency in inspections and enforcement nationwide. It also reviewed statistical data to better identify/forecast injury and fatality trends at mining operations, so as to focus their safety and health compliance specialists in areas where these events are more likely to occur.

In the area of hazard complaints, MSHA continues to implement recommendations from an OIG evaluation that found more needed to be done to improve the intake, management, tracking, and analysis of complaints. To that end, MSHA has completed a final review of its Hazard Complaint Procedures Handbook, which addresses these areas of concern. The handbook will be distributed to all enforcement personnel and integrated into inspector training modules at the National Mine Health and Safety Academy.

Finally, an OIG evaluation of MSHA's handling of inspections at the W.R. Grace & Company Mine in Libby, Montana, identified five areas where MSHA could do more to protect miners and their families against the health risks of exposure to asbestos. Three key recommendations require rulemaking: (1) lowering the permissible exposure limits for asbestos, (2) using a more effective method to analyze fiber samples that may contain asbestos, and (3) better addressing take-home contamination from asbestos. In response to these recommendations, MSHA issued an advance notice of proposed rulemaking on March 29, 2002, to request public comment. The benefits of rulemaking addressing these three areas would be the reduction or elimination of asbestos-related diseases arising from exposure to asbestos. Two additional recommendations pertaining to education and training have been resolved and closed based on MSHA's implementation of the OIG's recommendations. ■

Management's Response to the Inspector General's Statement on the Top Management Issues at the U.S. Department of Labor

The Department has achieved significant progress during the past year in overcoming the top management challenges identified by the Inspector General in January 2002, and the President's Management Agenda Scorecard and the Inspector General's January 2003 statement on the top management issues offer clear recognition of DOL's accomplishments. By the end of FY 2002, the Department's status ratings had improved to Yellow for four of the five items on the President's Management Agenda Scorecard, and progress for the same items was rated as Green, placing the Department as the highest rated Cabinet agency. The Inspector General's January 2003 statement removed one of the prior year's challenges and indicated substantial progress for others.

The Department anticipates that the results of initiatives to address several management issues during FY 2003 and a reassessment of other issues should enable the Inspector General to report even further progress in January 2004. In this regard, as referenced by the Inspector General's statement, many concerns first raised last year about the effectiveness of mine safety and health programs have been fully addressed during FY 2002, and efforts are underway to revise regulations as necessary to resolve all of the remaining mine safety concerns. The expected completion during FY 2003 of a program that will enable States to validate the quality of their performance data before reporting the results of their job training programs to DOL should resolve the Department's data quality issues. The Inspector General's statement also repeats some challenges, particularly in the information technology arena, that DOL has comprehensively addressed in prior years; a reassessment of the responses should allow the Inspector General to close these issues or provide specific guidance to the Department about the additional measures required.

Where a sustained effort is required by DOL over several years to address a management issue that impacts a core program or management priority, performance goals and strategies are targeted in the Department's Annual Performance Plan. For example, the Department's Plan incorporates goals to address the human capital management issues faced by DOL as well as to improve the results of the job training programs identified in the Inspector General's statement. Several issues require legislative action or otherwise fall outside of the Department's jurisdiction, as explained in management's response. To improve the clarity of presentation, the Department requests that the Inspector General segregate such items in future years' statements of management issues, directing the recommendations to officials in a position to complete the required actions.

Each management challenge and the actions taken or planned by the Department to address the conditions cited are discussed below.

Grant Accountability, Performance, and Effectiveness

DOL acknowledges that effective grants management and performance accountability are a continuing challenge in managing grants programs at the Federal, State, and local levels. DOL is pleased that the Office of Inspector General (OIG) has recognized the Department's efforts to improve the effectiveness of our grants management systems through the implementation of a comprehensive Contract/Grant Administration Plan. The Department has worked with OIG on the development of this plan, and will continue to work with OIG throughout its implementation.

Preaward/Award: OIG suggests that vulnerabilities associated with DOL-funded grants stem primarily from the fact that funds are passed down (often by formula) to second and third tier subgrantees and subcontractors, and because many of the ultimate recipients of funds are small organizations. While the first of the assertions is undoubtedly true, this decentralized system of funding and performance accountability, as acknowledged later in OIG's Top Management Issues paper (see "Resolving Inconsistencies in WIA"), is a key feature of the Workforce Investment Act (WIA). While DOL is working to improve its oversight and monitoring capabilities, this must be accomplished within the framework of the decentralized system prescribed by the legislation.

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Small and new grantees that are not accustomed to managing Federal grant funds are only a small fraction of DOL grant funds — for example, of the \$17.5 million in grants under the faith-based initiative, \$500,000 was awarded to small, community-based organizations. A report released by the White House Center for Faith-Based and Community Initiatives recommended that more funds be made available to non-traditional grantees, and DOL is working both to ensure that more funds are awarded to faith and community-based organizations and to improve the capacity of these organizations to manage the funds.

Finally, as referenced by OIG, the grant to a Welfare-to-Work competitive grantee that was the subject of a March 2002 audit was terminated based on the OIG audit and subsequent work by DOL staff. This serves as an example of effective monitoring and OIG/DOL cooperation.

Grant Execution: DOL has engaged in an extensive program to provide training and technical assistance tools to grantees (particularly new grantees) with respect to the statutory, regulatory and performance requirements of their grants. Overall, DOL anticipates that this training will be an effective tool to improve performance and minimize disallowed costs. DOL is also implementing performance management and oversight strategies that should further improve grantee performance. DOL will continue to work with OIG and on the basis of our own monitoring to disallow costs, impose corrective actions and, where appropriate, terminate grantees.

Reporting: DOL has been implementing internet-based financial and performance reporting systems. These systems have built-in edit checks and acceptance requirements that are designed to ensure timely and accurate reporting. The Department has also recently begun to implement an extensive performance reporting validation project to ensure that performance results reported by grantees conform to the definitions and criteria established by the applicable DOL program.

Oversight: The Employment and Training Administration (ETA), DOL's largest grantor agency, has identified accountability over grant funding as a priority, as recognized by OIG in the discussion of this agency's Grant/Contract Administration Implementation Plan in the Top Management Issues paper. As part of this effort DOL recently issued, with OIG concurrence, clarifying guidance on the proper reporting of WIA obligations at the local level. Consistent with its focus on grant and contract administration in FY 2002, ETA established the requirement that at least half of all formula-funded grants be monitored on-site.

The Department appreciates OIG's recognition of the improvements achieved by the Bureau of International Labor Affairs (ILAB) with respect to accountability for grants issued. The Office of the Assistant Secretary for Administration and Management (OASAM), the Office of the Chief Financial Officer (OCFO), and ILAB will work together in FY 2003 to address further improvements in the area of financial management to help assure that ILAB receives pertinent and timely information. ILAB also plans to work with a contractor to improve internal controls and security over its Activity Tracking System — an internal system that serves as an unofficial tool for program managers to track budgets, expenditures, and obligations.

WIA Program Implementation

The Workforce Investment Act has provided a significant opportunity and challenge to create a new generation of workforce investment programs that respond to the career development needs of Americans and the human resource needs of America's businesses. The Department has worked hard with the States and localities to build this system, and has learned many lessons in the process. The Department plans to incorporate these lessons into the process to reauthorize the Workforce Investment Act that will occur in 2003. Among the important areas in which the Department will propose changes is improving and simplifying the performance accountability system, including financial reporting.

Resolving Inconsistencies in WIA

Obligations and Expenditures: The Department has sent out revised reporting instructions recommended by the General Accounting Office (GAO) and the Inspector General to clarify an immediate problem relating to reporting of local obligations, as noted in OIG's Top Management Issues paper. GAO has also suggested that DOL concerns regarding the reliability of obligation data can be addressed by new requirements to report obligations made at the point of service delivery, rather than the current requirements that States report obligations reflected in the accounting records at the State or local level. However, the Department is concerned that such a requirement would be extremely burdensome and expensive to implement nationwide. DOL will follow the suggestion made by GAO to consult with the States on this

recommendation when financial reporting requirements are next reconsidered, but remains skeptical that the recommendation can be implemented. This consultation will most likely occur as part of discussions about WIA reauthorization. The Department is reluctant to make major interim changes. DOL concurs with the recommendations to provide guidance and technical assistance focused on accounting and reporting requirements and to share information on effective practices. To date, the Department's concerns have been to identify the causes of low spending and related low service levels and to address them. Ensuring that all States are aware of requirements relating to the accounting of WIA funds will be a priority for the coming year.

Definition of Credential: DOL and several other Federal agencies are working with the Office of Management and Budget (OMB) to develop a core set of performance measures that would apply to all Federally-funded job training programs, including WIA title I formula programs. Under this proposal, which is scheduled to take effect in FY 2004, the credential attainment measure for adult and dislocated workers would be eliminated. While it would remain for the youth program, DOL is working with the Department of Education's Office of Vocational and Adult Education to develop a definition that would apply to all Federal youth employment programs. No interim changes to the credential definition are anticipated.

Financial Performance

The Department's Office of the Chief Financial Officer works closely with program agencies on financial management and compliance issues. This partnership has resulted in DOL's financial management status on OMB's scorecard for the President's Management Agenda being upgraded from Red to Yellow, and its progress score being upgraded from Yellow to Green. The OCFO, however, believes that sound financial management goes well beyond the ability to produce timely and accurate financial statements. The ultimate goal of sound financial management is to provide DOL executives and program managers with information needed to make management decisions on a day-to-day basis. In FY 2003, the OCFO intends to work closely with each program agency to identify its needs and develop the tools and processes that will provide executives and managers with information that is essential for the effective management of their programs and activities.

The OCFO is committed to fulfilling its responsibilities under the Single Audit Act and intends to increase its involvement in the oversight of grantor agency monitoring and evaluation activities.

Accountability: Budget and Performance Integration

The President's Management Agenda Scorecard, as of September 30, 2002, rated DOL as Yellow for budget and performance integration and recognized our progress in this area as Green, clearly reflecting the Department's commitment to this key milestone towards performance-based management. While the full integration of performance and budget is a multi-year project, DOL has made substantial strides during the past year that will culminate in the presentation to Congress in February 2003 of a complete performance budget for the Department for FY 2004. In addition, the Department has developed a plan to further improve the performance budget presentation for FY 2005 and the years beyond, as experience in this new approach to budgeting, more reliable performance information, and the increased availability of cost accounting data support more precise linkages between budget and performance.

Quality of Program Data: The Department has adopted proactive measures to assure the quality of performance data that measure the results achieved by DOL programs, exceeding the standards established by OMB. Guidance included in OMB Circular No. A-11 defines performance data as acceptably reliable, "when there is neither a refusal nor a marked reluctance by agency managers or government decision makers to use the data in carrying out their responsibilities." In addition, Circular No. A-11 provides that Federal agencies are not required to develop an independent capacity for verifying or validating performance data received from non-Federal sources, and instructs agencies to be mindful of the costs and anticipated benefits of improving the quality of program information which meets decision-makers' needs.

Notwithstanding OMB's guidance, the Department has developed approaches for ensuring the validity of key data submitted by a variety of third parties, to improve the confidence of DOL management in the reliability of performance data that supports decisions critical to the well-being of the Nation's workers. For example, both the Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) conduct audits of a selected number of mine operations and other businesses respectively, to verify the accuracy of the employers' data pertaining to

Management and Performance Challenges

injuries, illnesses, and lost productive time. The Bureau of International Labor Affairs relies on program evaluations to confirm the performance results reported by local project administrators who receive DOL grant funding through the International Labor Organization and other grantees, where applicable. The Department's OIG conducts selective audits to verify performance data from internal Departmental systems as well as third parties.

With respect to the Department's employment and training programs, as OIG notes, DOL has mounted a data validity and verification program to improve the quality of program data from States and other grantees that are part of the workforce investment system. Development work has been substantially completed and will be followed by training and assistance in early 2003. Using this program, the States and grantees will be expected to validate the performance data that will be included in the Department's FY 2003 Annual Report for the employment and training goals.

Access to Data: The Department agrees that Unemployment Insurance (UI) Wage Record information and the National Directory of New Hires are important sources of information for determining program outcomes. The Department believes that the current statutory authority in WIA has been sufficient to provide needed access to UI wage record information for program accountability reporting. The States and the Department have used UI wage record information as the source for reporting on the WIA employment indicators. The Department will propose to continue this authority with the reauthorization of WIA. The Department also has plans to work with the Department of Health and Human Services to explore mechanisms to combine selected New Hire information with that in UI wage records to improve the usefulness of these as data sources for economic and program performance accountability information. In doing so, the Department will consider whether statutory authorization may be required.

Managerial Cost Accounting: The Department supports the use of managerial cost accounting for results-oriented decision-making and measurement of program economy and effectiveness. In order to enhance the Department's managerial cost accounting efforts, the Office of the Chief Financial Officer is in the process of forming a division within its Office of Financial Integrity responsible for enhancing the Department's managerial accounting processes and facilitating the integration of performance and financial information at the operational level. These activities will be coordinated with OASAM's efforts to integrate budget and performance.

Security of Pension Assets

Safeguards to Protect Pension Assets: Between 1991 and 1997, the Department submitted legislative proposals calling for the repeal of the limited-scope audit provision and calling for reforms to strengthen plan audits. During that same period, the Department also proposed legislative changes that would require the direct reporting of certain criminal violations relating to employee benefit plans. Despite the Department's continued efforts, Congress has not enacted this legislation.

Absent Congressional action, the Department continues to take steps to improve the audit process established by the Employee Retirement Income Security Act of 1974 (ERISA). Program initiatives of DOL include cooperative efforts with the accounting profession, such as referral of deficient accountant work to State boards of accounting and to the American Institute of Certified Public Accountants for appropriate remedial actions. In addition to these ongoing program efforts, the Department's Pension Welfare Benefits Administration (PWBA) continues its active involvement with the Financial Accounting Standards Board to develop accounting guidance for employee benefit plans. DOL recognizes that the problem of deficient audits remains in spite of the Department's compliance initiatives and is considering approaches to address these issues.

With respect to cash balance plans, OIG issued a report in 2002 of its audit of PWBA's oversight of cash balance plan lump sum distributions. In its report, OIG recommended that PWBA direct more enforcement resources toward protecting the benefits of cash balance plans' participant benefits, initiate specific action on the 13 plans identified by OIG in its audit report, and work with the Internal Revenue Service (IRS) to develop improved guidance for plan sponsors in calculating participant accrued benefits in cash balance plans.

The Department's regulatory and enforcement authority in this area is limited. DOL cannot take any enforcement action or begin working with the IRS on additional guidance until the IRS determines whether or not there were violations of Internal Revenue Code and ERISA. Consequently, the Department forwarded a copy of the OIG report and supporting work papers to the IRS for its review and comments. We are currently awaiting IRS' response, and will provide assistance in developing new guidance if IRS determines this action is warranted.

Pension Plan Enforcement: The Department recognizes that pension funds represent a target for individuals with criminal intent and has responded to that challenge with a strong enforcement program. PWBA's enforcement mission is to deter and correct violations of Title I of ERISA and related criminal statutes. This is accomplished through civil and criminal investigations of plans, plan sponsors, fiduciaries, and service providers. During the past few years, there has been an increased commitment to our criminal enforcement program. During FY 2002, there were 134 indictments issued as a result of PWBA's criminal investigations, and convictions or pleas were entered in 49 different PWBA cases. PWBA criminal enforcement investigations resulted in the recovery of over \$2.3 million on behalf of employee benefit plans or their participants and beneficiaries. In addition, PWBA closed 4,925 civil investigations of which 58 percent or 2,877 were with results. During this period, PWBA civil enforcement investigations had monetary results of over \$830 million, approximately 27 percent more than FY 2001 and a record for the Agency.

PWBA will continue to target criminal cases in various ways that have demonstrated successful results in the past such as analyzing computer data, gathering information through civil investigations, leads from plan participants, plan officials, informants, and media sources, and information gained from other government agencies. The Department also maintains close working relationships with other law enforcement agencies such as the U.S. Attorneys, the Federal Bureau of Investigations, the Postal Inspectors, and OIG. Finally, while not all fraud can be prevented, DOL is proactive in the early detection and prevention of criminal behavior by, among other things, aggressive outreach and education campaigns. Education campaigns create knowledgeable consumers who can assist in "policing" their own benefit plans. An informed public is a good source of early detection and prevention of criminal activity and the Department continues to leverage the knowledge of the public who may be in the best position to identify potential fraudulent behavior.

The Department recognizes the importance of devoting appropriate enforcement resources to the review of service providers to employee benefit plans, including Taft-Hartley plans. In its Strategic Enforcement Plan, published in April 2000, PWBA identified plan service providers as a national investigative priority. Investigations of plan service providers offer the opportunity to address abusive practices that may affect more than one plan, and by focusing investigative resources on plan service providers, PWBA can address violations involving many plans. Because such investigations generally result in larger recoveries for more plans and more participants, this approach allows PWBA to leverage its resources and obtain the maximum impact for the benefit of plan participants and beneficiaries. As pointed out by the OIG, an illustration of this investigative approach is PWBA's Capital Consultants, Inc. case in which, as a result of PWBA's efforts, over \$149 million have been recovered to date. In addition, 27 trustees have been precluded from involvement in employee benefit plans as fiduciaries or service providers. With respect to the criminal investigation, which PWBA conducted jointly with OIG, seven individuals have been indicted thus far. Four defendants have pled guilty and one of these defendants is serving a 24-month prison sentence. PWBA continues to investigate the trustees of other plans that invested with Capital Consultants.

With respect to employer-sponsored 401(k) plans, PWBA has had a national enforcement project since 1995 focusing on the failure of employers to timely remit employee contributions to 401(k) plans. Since the beginning of the project through September 30, 2002, PWBA has opened 8,000 civil investigations and closed 6,538 civil investigations (4,428 with violations and monetary recoveries). Also, 170 criminal cases have been opened. Thus far, these cases have resulted in the criminal prosecution of 117 persons. PWBA has recovered over \$170 million nationwide through this project. The investigations opened under this project are among the most successful for PWBA in terms of finding and correcting violations, due in large part to PWBA's use of strategic targeting of resources. For example, in FY 2002, PWBA closed 1,351 civil cases in this project, 1,062 of which (or 79 percent) resulted in corrected violations. This compares favorably to the overall ratio of cases closed with violations, which was 58 percent in FY 2002. A significant step occurred in March 2002, when the Department announced a final Voluntary Fiduciary Correction Program (VFCP). The VFCP enables 401(k) plan sponsors to self-correct delinquent participant contributions by restoring losses, including earnings, to plans. Applicants meeting the conditions of the VFCP are granted relief from any applicable excise taxes under a VFCP Class Exemption published. The Department has received 166 VFCP applications, most of which address correction of 401(k) contributions. To promote use of the VFCP, in 2002 the PWBA's Web site posted Frequently Asked Questions on calculating earnings on delinquent 401(k) contributions under the VFCP.

Management and Performance Challenges

Protection of Worker Benefit Funds

Funding Concerns

The Department is dedicated to the highest standards of financial stewardship and program integrity in administering funds that provide critical benefits to the Nation's workers. The funding concerns identified by OIG are matters largely outside the Department's control. With respect to program integrity, we recognize that all Government benefit programs are vulnerable to abuse. However, the minimal rates of fraud and overpayments identified in systemic studies of the Federal Employees' Compensation Act program, the Department's initiatives to reduce erroneous payments in conjunction with the President's Management Agenda, and aggressive corrective actions in response to OIG recommendations attest to the Department's vigilance in protecting these funds. The Department is aware, however, that further protection of these funds is required and will continue to seek out additional ways to combat fraud and minimize overpayments.

Unemployment Trust Fund: As noted by OIG, the Unemployment Trust Fund paid \$50.6 billion for "State Unemployment Benefits" for FY 2002. In addition, 30 States were reported as "not minimally solvent" as of September 30, 2002, up from 21 for September 30, 2000, and 26 for September 30, 2001. These increases are normal for an economic downturn because of the counter-cyclical nature of UI funding. The Department provides technical assistance to the States on issues relating to solvency.

The Department appreciates OIG's assistance in facilitating an agreement with the Department of the Treasury to develop a new methodology that will more accurately charge the Unemployment Trust Fund for the collection and processing of unemployment taxes and the administration of the fund. The completion of an agreement should allow this issue to be removed from the Department's top management issues.

In addressing overpayment problems in the Unemployment Insurance (UI) program, OIG notes that the Benefits Accuracy Measurement (BAM) system, which was developed by the Department as a management tool to identify overpayment problems, projected overpayments of \$2.3 billion for FY 2001. Furthermore, OIG states that, for FY 2001, actual overpayments identified through States' Benefit Payment Control (BPC) activities—under which each State identifies and investigates benefit overpayments, establishes receivables, and collects overpayments—totaled \$0.669 billion, or less than one-third of the amount estimated by BAM activities. The Benefit Payment Control activities do not establish a larger percentage of the dollars that the BAM program estimates as overpaid for reasons particular to each of the two programs. BAM, for example, includes in its estimates some overpayments that BCP can detect, but finds too small to be cost beneficial to establish for collection, or which State law deems non-recoverable. On the other hand, BAM estimates overpayments for causes, such as failure to conduct a work search, that BCP would establish for collection, but cannot detect with available resources. BAM is only able to detect some overpayments because BAM investigators conduct an intense, rigorous investigation of each sampled claim that is too costly to be applied in the general administration of the UI program. Applying the BCP program attributes to the \$2.3 billion overpayments estimated by BAM in FY 2001 results in the following: \$1.235 billion are recoverable and detectable using BCP methods; \$0.566 billion are recoverable, but not likely to be detected by BPC; and \$0.484 billion are non-recoverable and thus out of the scope of the BPC program. States now establish through BCP over 50 percent of the BAM estimate of the kinds of overpayments that their current BPC methods are most likely to be able to detect. The Department is taking steps to raise that percentage by improving both the prevention and detection/recovery of overpayments. These include encouraging and funding States to use Social Security Administration data on-line to prevent overpayments due to misused social security numbers, and to conduct crossmatches of benefit payments against the New Hire database to detect unreported benefit year earnings.

The BAM estimate has been flat over the past 12 years because all practical, cost-effective corrective actions that have been identified to date were implemented during the first year or two of the BAM program when problems were initially uncovered. The 8.5 percent national estimate is probably reasonable given: (1) the definition of error currently used in BAM; (2) the complexity of the UI program; and (3) the current funding levels. However, the Department is continuing analysis and urging States to continue to explore innovative ways to prevent overpayments from occurring, and to detect and recover higher percentages of the overpayments the States could not prevent.

As referenced by OIG, the Department has developed a performance measure for FY 2003 to improve the accuracy of UI payments by establishing for recovery 59 percent of overpayments the system could potentially recover, and plans to adopt a measure in FY 2004 to target the recovery of those overpayments. These performance measures support the financial management initiatives of the President's Management Agenda to reduce erroneous payments in major benefit programs.

Black Lung Disability Trust Fund Deficit: This issue can only be resolved by legislative action and the Department continues to seek such a solution. Proposed legislation, which would restructure the existing indebtedness and extend the current excise tax rates until the debt is repaid, was approved by the Secretary on January 14, 2002, approved by OMB, and has been transmitted by the Secretary to the Congress for its consideration.

Energy Employees Occupational Illness Compensation Programs: The Department contracted with an actuarial firm for analysis of the Energy Employees Illness Occupational Compensation Program's data and a projection of the liability for future payments as of September 30, 2002. The results have been submitted to the OIG for audit.

Program Integrity

Unemployment Insurance: OIG discusses a number of weaknesses that pose problems for the Unemployment Insurance system and need to be addressed, including the loss of contributions due to hidden wages and the misclassification of workers. Under the Department's guidance, the States are aggressively pursuing employers that hide wages by misclassifying their employees. In the ten quarters since the Department began keeping records on misclassified workers, State tax auditors have completed 278,160 employer audits and found previously unreported wages of \$3.8 billion and 243,115 employees that were misclassified as independent contractors.

To further identify hidden wages, the Department has worked with OIG over the last three years in an effort to provide State UI agencies with a 1099-MISC Extract tape from the Internal Revenue Service that identifies individuals who are being reported to the IRS as independent contractors. This tape assists the States by providing leads for the selection of employers for audit purposes. As of May 2002, a total of 20 State UI programs have begun to receive this tape.

DOL has taken a number of recent actions and continues to work to address fraud detection and investigation in the States, including:

- **1998** The Unemployment Insurance System distributed training materials to States for the purpose of improving methods for detection and investigation of overpayments including a CD-ROM for beginner training and a set of five videos for advanced training.
- **1999** Distributed copies of the OIG study "Audit of Benefit Payment Controls" that contained recommendations for strengthening States' overpayment detection procedures in their wage/benefit crossmatch systems and espoused the advantages of employing the New Hires system for detecting overpayments.
- **2000** Provided guidance reiterating the advantages of using the New Hires system and further encouraged States to use it.
- **2001** Provided training to States through presentations and workshops at a national conference on a variety of topics pertaining to benefit payment control, internal security, and tax integrity.
- **2002** A guidance letter is in draft to invite States to submit supplemental budget requests to obtain funding for the purposes of implementing/operating/enhancing New Hires systems. The Department is currently working with the Social Security Administration to develop a system for all States that will address identity theft and the fraudulent use of Social Security Numbers for filing Unemployment Insurance claims.
- **2003** A National Integrity Conference is planned. Workshops will be directed towards State supervisors of benefit payment control operations, and will include topics relating to prevention, detection, and collection of overpayments.

Management and Performance Challenges

Federal Employees' Compensation Act (FECA): We believe that the OIG's audit work and fraud investigation experience demonstrate that the internal controls instituted by the FECA program are generally effective and reasonable.

Each year fewer than 100 individuals are prosecuted for FECA fraud, out of a universe of more than 250,000 claimants receiving benefits and hundreds of thousands of medical providers billing for services. In FY 1999, the total amount of FECA benefits determined by outside auditors to have been overpaid, for fraudulent and non-fraudulent reasons, was less than 3/4 of one percent of total compensation payment made. The percentage of medical payments found to be potentially inappropriate by the OIG-supervised audit was even smaller. While some inappropriate payments do go undetected, the Office of Workers' Compensation Programs' (OWCP) major cost containment initiatives are making significant progress in addressing those instances. OWCP has taken numerous concrete steps to address its vulnerability:

- A proposed legislative solution to obtain automated cross-matches with SSA, as recommended by OIG;
- Procedural changes for obtaining earnings information by requiring submission of the authorization to obtain earnings data from SSA annually instead of every three years;
- Periodic Roll Management reviews of long-term disability cases for continuing entitlement to benefits, in place since 1992. (Note: OWCP devotes more than 120 FTE to this function each year);
- The Quality Case Management (QCM) initiative, which ensures that new disability cases are carefully reviewed, including by rehabilitation nurses, to ensure appropriate care, early return to work, and avoidance of inappropriate payments;
- The Corrective Coding Initiative review of medical bills (implemented in response to OIG findings regarding improper medical provider bill coding practices);
- Modernization of ADP systems to ensure that FECA payment systems are designed to minimize vulnerability to fraud and abuse;
- Automated system relational edits to bills, in addition to Correct Coding and fee schedule edits, to deny or suspend bills for services unrelated to the diagnosis accepted in the case;
- Limited utilization review of high-cost and high-incidence medical services, such as physical therapy and psychiatric services to ensure that proper treatment regimens are followed for those medical services, initiated in FY 2001. Funding sought in FY 2003 for an expansion to examine patterns of unusual changes, to detect misbillings and potential fraud by medical providers;
- Fiscal Operations Specialist position created with monitoring and auditing responsibilities in each of FECA's twelve district offices, including identification of potential duplicate medical and compensation payments and guarding against any potential compensation or medical fraud, including internal fraud;
- The "OASIS" system, which entails electronic imaging and handling of FECA case files, to greatly enhance program controls over incoming mail;
- Continued refinement of existing improper payments controls, wherever necessary, and design of new systems to minimize vulnerability. For example, the initiative to receive some new claims and medical bills electronically, carefully designed to maintain and enhance existing controls;
- Centralized medical bill processing (operations to begin in late FY 2003), provided under contract with ACS, Inc. which specializes in using automated case review measures, including clinical guidelines for medical treatment and fraud and abuse protection, identification of appropriate clinical treatments, and improved tracking and prior authorization of requests for medical services.

Information Technology and Electronic Government

Security of IT Assets: The Department has been vigilant in securing information technology (IT) assets. In FY 2002, the Department had 46 sensitive systems, and has prepared current risk assessments and system security plans for each of these systems. Additionally, known vulnerabilities for the 46 sensitive systems have been addressed through system level Plans of Actions & Milestones that reflect the significant progress DOL has achieved toward mitigating risks. The Department's past performance in managing the Plans of Actions & Milestones has been highly successful and cited as an example by the Office of Management and Budget for completeness and effectiveness. Additionally, the Department achieved 87 percent compliance with the National Institute of Standards and Technology's model described in Special Publication 800-26 at Level Three and 85 percent compliance with Level Four, demonstrating the Department has implemented security procedures and controls, and the procedures and controls are tested and reviewed. The Department is expanding its security program in FY2003 to cover an additional 36 sensitive systems, raising the total number of systems managed under

the security program to 82. Risk assessments and Plans of Actions & Milestones to mitigate risks will be developed for the additional 36 sensitive systems during FY2003. Additionally, the Department's Annual Performance Plan for FY 2003 provides further confirmation of DOL's commitment to the security of our information technology assets, with a performance measure to reduce severe unauthorized intrusions by 50 percent.

OIG stated in the FY 2002 Annual Security Act Report that, "...the Department is improving upon managing its information security program through its related Plans of Action and Milestones, in accordance with the Office of Management and Budget Memorandum 02-09." The report further states that, "These accomplishments are helping to ensure security issues are being addressed throughout each phase of a system's life-cycle." Additionally, the OIG concluded that the Department has established an information security program that has an observed focus and commitment. These factors should bring about assurances that DOL computer systems are reliable and adequately safeguarded, and result in providing uninterrupted delivery of benefits and services to the public.

Finally, the Department is pleased to report that, according to a General Accounting Office report on Computer Security issued November 19, 2002, *Computer Security: Progress Made, But Critical Federal Operations and Assets Remain at Risk*, DOL was the highest ranked Cabinet level agency and the second highest overall Federal agency, moving from a score of 56 in FY 2001 to a score of 79 in FY 2002, with a report card grade of C+. This score is based on information contained in agency reports submitted to OMB as required by the Government Information Security Reform Act (GISRA). The GISRA focuses on the program management, implementation and evaluation of agency plans and procedures designed to protect the security of information technology systems that support Federal operations and assets.

CIO Authority and Organizational Independence: The current organizational alignment that assigns the responsibilities of the Chief Information Officer (CIO) to the Assistant Secretary for Administration and Management (ASAM) promotes operational effectiveness and efficiencies, contributing to the successful record the Department has achieved in the area of information technology management. The Department's record also demonstrates that the CIO has the necessary authority and organizational independence from other agencies within the Department to manage DOL's information technology resources proficiently.

The integration of CIO responsibilities within the Assistant Secretary for Administration and Management position affords distinct advantages in the implementation of the Clinger Cohen Act. Effective management of information technologies requires linking proposed IT investments to Departmental missions, priorities, and strategies. It also requires a close partnership with the Departmental Budget Center to control IT investments. The ASAM is responsible for DOL strategic planning, Government Performance and Results Act implementation, and Departmental budget development and management and human resources management. As a result, the ASAM is best positioned to ensure the integration of IT policies and plans cohesively throughout the Department. It is worth noting that only 3 of 46 mission critical systems (less than 7 percent) fall within the Office of the Assistant Secretary for Administration and Management and come directly under the ASAM's area of responsibility. Thus, the ASAM's objectivity is not hindered by the integration of CIO responsibilities or vice versa.

Under the continuing leadership of the Assistant Secretary for Administration and Management, the Department has established a track record of excellence in the information technology field, with FY 2002 accomplishments described in this section — including recognition of effective performance from the Congress, the General Accounting Office, the Office of Management and Budget, and OIG itself. In addition, the Office of Management and Budget designated DOL to serve as a "managing partner" to lead one of the 24 large-scale E-government initiatives, entitled GovBenefits. GovBenefits was the first of twenty-four Federal-wide initiatives to offer services to the public, launching Phase I on April 29, 2002. It is a partnership of ten Federal agencies to provide improved, personalized access to government assistance programs.

As a result of this and many other achievements, DOL is recognized as a leader in Clinger Cohen Act implementation throughout the Federal government. For example, the Director of the Office of Management and Budget recognized DOL for its leadership as the only department with centralized funding for some of its IT systems. The Office of Management and Budget's scorecard for the implementation of the President's Management Agenda cites effective enterprise architecture and capital planning processes, two of the primary objectives of the Clinger Cohen Act. DOL received a Yellow status rating and a Green rating for progress on the September 30, 2002 President's Management Agenda scorecard. The FY 2002 Budget Passback highlighted the efforts of the CIO in the development of an E-government strategy and cited our customer value network process as "best practice material."

Management and Performance Challenges

The Fiscal Year 2002 Annual Security Act Report referenced earlier also states: "...The Department's Office of the Chief Information Officer is recognized for its leadership in tracking the performance level of each security plan and how it has been able to integrate security performance results within the Department's Capital Planning and Investment Control process and the Enterprise Architecture, including related budgetary decision papers and exhibits." The Department was recognized and received an award in FY 2002 from The Performance Institute for Overall Performance Management.

DOL's sustained record of performance should allay OIG's concerns that the administrative functions of the Department divert the Assistant Secretary for Administration and Management's attention from or conflict with his information technology responsibilities. While we agree with OIG that the successes of the incumbent ASAM and Deputy CIO do not guarantee that all future ASAMs will enjoy the same level of success, the existing organizational structure supports their achievements. If a future leadership team proves less successful, the causes of the diminished results should be identified and addressed by the most suitable remedy. To undertake a disruptive and costly organizational realignment at this time would be inappropriate.

Program Integrity in an Electronic Environment: As described in the Management Responses to this OIG in the Department's FY 2000 and FY 2001 Annual Reports, DOL and our program partners recognize that any significant revision of benefits payment processes — including those utilizing automation — must be designed and implemented such that vulnerability to fraud and abuse is assessed, and appropriate controls are developed to minimize or curtail that vulnerability. While posing potential new risks to program integrity, electronic benefit payment also offers a wide array of new methods for detecting and preventing fraud and abuse that were unavailable in a less automated environment, and the Department and our partners have fully exploited these tools to maximize the protection of program assets.

The Department has provided detailed information in the past two years' reports regarding the comprehensive security and oversight procedures DOL and our program partners have instituted to protect the integrity of benefit payment processes in an electronic environment. Studies of Unemployment Insurance (UI) claims discussed in the prior DOL Annual Reports have identified no statistically significant differences in the incidence of fraud in claims filed by traditional procedures versus those filed by telephone, and OIG has identified a combined fraud and non-fraud overpayment rate of less than one percent in the Federal Employees' Compensation Act program. Although OIG references recent casework in worker benefit systems and the UI program as supporting its concerns, OIG has not provided sufficient information to enable the Department to determine whether these acts of fraud required an electronic environment, or simply made use of available automated filing systems in lieu of paper forms to obtain benefits illegally. Furthermore, in the Top Management Issues paper, OIG has neither acknowledged the extensive measures for protecting electronic benefit payments discussed in the Department's prior Annual Reports nor offered insights on specific inadequate or missing controls that could assist the Department and its partners to fully meet the challenges of program integrity in an electronic environment.

Program integrity is a primary consideration as the Department's Office of Workers' Compensation Programs (OWCP) moves toward an electronic environment. Current electronic initiatives are all performed with known and trusted trading partners. The electronic receipt of claims for job related injuries and illnesses is a joint effort of OWCP and the employing agencies of the injured Federal workers. All records submitted electronically pass through multiple data reviews — by the injured worker's supervisor, by the Human Resources office at the employing agency, and by OWCP district offices — that significantly reduce the risk of fraud or abuse in the claims submission process.

All medical bills submitted electronically are processed through well-known commercial clearinghouses that verify the legitimacy of a medical provider prior to allowing the provider to become a member of the clearinghouse. Internally, OWCP continues to improve the editing and auditing of medical bills to better detect instances of fraud or abuse.

As the Department develops new systems for the workers' compensation programs, DOL will ensure continuing compliance with all relevant government standards for security for internal automated procedures and Internet communications.

Integrity of Foreign Labor Certification Programs

The identification of fraud in the Foreign Labor Certification Programs continues to be a significant challenge to DOL because of limited resources, lack of knowledge on how much and where fraud takes place in the process, and no enforcement authority. Additionally, as pointed out by OIG, the Department lacks the authority to validate information on applications completed by program participants in the H-1B program. DOL has procedures in place to alert legitimate companies and corporations that permanent applications have been filed on their behalf. These procedures have been successful in the past because companies have responded and leads have been provided to OIG. The examples of fraud cited by OIG are two cases in which DOL Regional Office staff worked with OIG on fraudulently filed cases. To address this challenge during FY 2003, DOL will be participating with the Immigration and Naturalization Service in its development of an anti-fraud strategic plan, which focuses on intelligence gathering, fraud assessment and enforcement experience. DOL will analyze the results of this effort to identify additional improvements to existing procedures and the use of technology to help reduce the incidence of fraud.

Human Capital Management

DOL considers human capital management a top priority, and the recognition the Department has received for achievements and innovations during FY 2003 provides evidence of our success in meeting the challenges facing the DOL workforce in the 21st Century. For example, the Office of Management and Budget assessed DOL's status as Yellow and progress as Green for Human Capital Management on the President's Management Agenda Scorecard as of September 30, 2002. In addition, the Department was selected as a finalist for the 2002 President's Quality Award for its approach to strategic management of human capital. The Department has also implemented numerous initiatives supporting the specific human capital management issues detailed by OIG. An overview of these initiatives is provided below.

The development and use of core competencies is a priority within DOL. The Department is in the process of identifying core competencies for DOL's primary occupations, including front line staff, human resources, and support staff, as well as leadership competency models. DOL uses its core competencies in such functions as:

- Providing clarity for employees to manage their individual professional development process;
- Providing a means for self-assessment;
- Providing a link to developmental and learning activities to improve job performance;
- Developing organizational training programs; and
- Recruiting and hiring new employees with the necessary knowledge, skills, and abilities.

DOL actively uses personnel flexibilities to both recruit and retain a quality workforce. This is predominately accomplished using such flexibilities as recruitment and retention bonuses at present, and the Department is assessing the Student Loan Repayment Program as an additional incentive. DOL is also broadening its use of special hiring authorities, such as the Career Internship Program on which the recently launched MBA Outreach program, designed to recruit and nurture the next generation of DOL leaders, is based. Recruitment for the first class of MBA's proved highly successful, with approximately 250 candidates applying for 20 slots, and the Department may expand the program to a second FY 2003 class.

DOL has implemented an aggressive succession management program. DOL maintains an active Senior Executive Service Candidate Development Program, and 27 candidates are in training during FY 2003 for top executive positions in the Department. Our first "Excellence In Leadership" Succession Management Program class is currently being trained to fill critical future leadership positions. In addition to the "Excellence In Leadership" Program, DOL provides a Manager's Mentoring Program, and a Leadership Transition Program. Several DOL agencies have also initiated their own management development programs to identify and train candidates for advancement into the supervisory and managerial ranks.

In addition to the initiatives designed to build our leadership strength, training is provided to the general workforce to increase professional growth and to eliminate skill gaps. Courses are offered in facilitation, consulting and conflict management, as well as many other skills. Through DOL's Performance Enhancement Resource Center, employees have the opportunity to select from over 1,500 "available as needed" training modules from their computers.

In response to the recommendation that the Department track and report on telework participation, DOL will expand its current tracking of formal telework arrangements to include informal, episodic telework. Further, the Department is working with the Office of Personnel Management to develop web-based telework training for Federal supervisors and employees.

Management and Performance Challenges

In response to OIG recommendations on the Presidential Management Internship (PMI) Program, DOL developed an action plan to improve the program. The Department has prepared a PMI Handbook, desk aid, and training for supervisors and will conduct its own PMI orientation program prior to the OPM orientation. These actions will clarify responsibilities for all parties. DOL will also sponsor a networking session so that new PMIs can meet and benefit from the experience of former PMIs.

Effectiveness of Mine Safety and Health Programs

The Department's Mine Safety and Health Administration (MSHA) is taking action to further integrate enforcement and compliance assistance activities by improving direction and guidance to district management on the operation of program activities, and is studying the allocation and distribution of enforcement and compliance assistance resources to determine the combination of activities that will produce the greatest effects on mine safety. DOL developed new performance goals with more meaningful outcomes regarding the prevention of mining related fatalities, injuries and illnesses. The Department is also identifying trends in mining injuries and fatalities, studying features of current programs to identify elements that are most successful in reducing injuries and fatalities, and will utilize these elements to revise other MSHA enforcement and compliance assistance activities. MSHA was not reviewed by the OIG in FY 2002. In FY 2001, OIG completed three audits/evaluations of MSHA's Metal and Nonmetal Mine Safety and Health programs: a Study of Metal and Nonmetal Mining Enforcement and Compliance Assistance Activities 1983-2000; an Evaluation of MSHA's Handling of Inspections at the W.R. Grace Mine in Libby, Montana; and an Evaluation of Hazard Complaint Handling in MSHA's Office of Metal and Nonmetal Mine Safety and Health. As discussed in the following paragraphs, MSHA has initiated a number of actions to address the findings and recommendations from these OIG studies.

MSHA has developed and distributed a "Consistency Plan" for Metal and Nonmetal Safety and Health Mining Districts to encourage safety and health compliance specialists to uniformly enforce standards on a nationwide basis. MSHA has also completed a review of statistical data to more effectively identify injury and fatality trends at mining operations. The results of this review will enable the Department to focus MSHA resources in areas where problems are more likely to occur. An action plan resulting from the review is under development and will be completed by March 2003.

In March 2002, MSHA began providing specific training on asbestos-related matters to safety and health compliance specialists who visit mines known to contain asbestos. MSHA also provides training on procedures for air and bulk sampling where asbestos may be present. Several of the OIG recommendations require rulemaking, including 1) lowering the permissible exposure limit for asbestos; 2) use of Transmission Electron Microscopy in initial analysis of fiber samples; and 3) addressing take-home contamination. Advanced notice of proposed rulemaking was published in March 2002. Seven public meetings were held across the country seeking input on these issues.

Until the regulation is finalized, MSHA is taking the following actions: 1) encouraging mine operators to comply with the OSHA asbestos standards, to educate operators to recognize that a "standard of care" based on lower exposure will reduce the potential for illness and liability; 2) using a contract laboratory to perform Transmission Electron Microscopy to confirm the identify of asbestos fibers on samples exceeding the OSHA limit; and 3) to address the take-home contamination issue, MSHA is currently stressing compliance with existing standards regarding special protective equipment and clothing.

MSHA formed a Hazard Complaint Committee to review, standardize, and develop hazard complaint intake, inspection and reporting forms, which are now integrated into a Hazard Complaint Procedures handbook. The Committee established consistent policies and procedures for the processing of hazard complaints by field office supervisors and inspectors, including appropriate responses to hazard complaints deemed trivial and/or outside of MSHA's jurisdiction and guidance on incorporating hazard complaints into a regular mine inspection. Following the publication of the handbook, headquarters staff will update training and materials provided to inspectors. MSHA is also developing a nationwide hazard complaint analysis system similar to the system used by Metal and Nonmetal headquarters staff. The handbook, updated training, and complaint analysis system are all scheduled for completion in January 2003.

Finally, MSHA is reviewing all violations related to Personal Protective Equipment (PPE) for special assessment, developing cognitive behavior approaches that will target risk taking and PPE use by management and labor, and is tracking fatalities involving adequacy, availability, and use of PPE. A Personal Protective Equipment workgroup is established and working with the National Institute for Occupational Safety and Health to develop a plan for increasing the use of such equipment to reduce fatalities, injuries, and illnesses in the Nation's mines. ■